

Senate Study Bill 1042 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON FRAISE)

A BILL FOR

1 An Act relating to the release and satisfaction of judgments.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 624.23, subsection 2, paragraph c, Code
2 2011, is amended to read as follows:

3 c. A party serving a written demand under this subsection
4 may obtain an immediate court order releasing the claimed lien
5 by posting with the clerk of court a cash bond in an amount of
6 at least one hundred twenty-five percent of the outstanding
7 balance owed on the judgment. The court may order that in
8 lieu of posting the bond with the clerk of court, the bond
9 may be deposited in either the trust account of an attorney
10 licensed to practice law in this state or in a federally
11 insured depository institution, along with the restriction that
12 the bond not be disbursed except as the court may direct. A
13 copy of the court order shall be served along with a written
14 demand under this subsection. Thereafter, any execution on
15 the judgment shall be against the bond, subject to all claims
16 and defenses which the moving party had against the execution
17 against the real estate, including but not limited to a lack
18 of equity in the property to support the lien in its proper
19 priority. The bond shall be released ~~by the clerk of court~~
20 upon demand of its principal or surety if no execution is
21 ordered on the judgment within thirty days of completion of
22 service of the written demand under this subsection.

23 Sec. 2. Section 624.37, Code 2011, is amended to read as
24 follows:

25 **624.37 Satisfaction of judgment — penalty.**

26 1. When the amount due upon judgment is paid off, or
27 satisfied in full, the party entitled to the proceeds thereof,
28 or those acting for that party, must acknowledge satisfaction
29 of the judgment by the execution of an instrument referring to
30 it, duly acknowledged or notarized in the manner prescribed
31 in chapter 9E, and filed in the office of the clerk in every
32 county wherein the judgment is a lien. A failure to ~~do so~~
33 acknowledge satisfaction of the judgment in such manner
34 within thirty days after having been requested to do so in
35 a writing containing a draft release of the judgment shall

1 subject the delinquent party to a penalty of ~~one~~ four hundred
2 dollars ~~plus reasonable attorney fees incurred by the party~~
3 ~~aggrieved, to be recovered in an action for the satisfaction~~
4 ~~or acknowledgment by the party aggrieved~~ by a motion filed by
5 the judgment debtor in the court that rendered the original
6 judgment requesting that the judgment debtor be subrogated to
7 the rights of the judgment creditor, that the court determine
8 the amount currently owed on the judgment, or any other relief
9 as may be necessary to accomplish payment and satisfaction of
10 the judgment. If the motion relates to a lien of judgment as to
11 specific property, the motion may be filed by a person with an
12 interest in the property.

13 2. Upon the filing of an affidavit to the motion that
14 a judgment creditor cannot be located or is unresponsive
15 to requests to accept payment within the thirty-day period
16 described in subsection 1, payment upon a judgment may be
17 made to the treasurer of state as provided in chapter 556 and
18 the treasurer's receipt for the funds is conclusive proof of
19 payment on the judgment.

20 Sec. 3. Section 631.1, Code 2011, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 8. The district court sitting in small
23 claims has concurrent jurisdiction of motions and orders
24 relating to releases of judgments in whole or in part including
25 motions and orders under section 624.23, subsection 2,
26 paragraph "c" and section 624.37, where the amount owing on
27 the judgment, including interests and costs, is five thousand
28 dollars or less.

29 EXPLANATION

30 This bill relates to the release and satisfaction of
31 judgments.

32 Current law provides that a party serving a written demand
33 on a judgment lien against a homestead may obtain an immediate
34 court order releasing the claimed lien by posting a cash bond
35 with the clerk of court. The bill provides that the court

1 may order that, in lieu of posting the bond with the clerk of
2 court, the bond may be deposited in either the trust account
3 of an attorney licensed to practice law in this state or in
4 a federally insured depository institution, along with the
5 restriction that the bond not be disbursed except as the court
6 may direct.

7 Current law provides that when the amount due on a judgment
8 is paid off or satisfied in full, the judgment creditor must
9 acknowledge satisfaction of the judgment by executing and
10 filing an instrument with the clerk of court in every county
11 where the judgment is a lien. Failure to do so within 30
12 days subjects the judgment creditor to a penalty of \$100 plus
13 reasonable attorney fees. The bill amends this law to provide
14 that the judgment creditor may instead have the instrument
15 acknowledging satisfaction of the debt notarized in the manner
16 prescribed in Code chapter 9E. The bill increases the penalty
17 for failing to acknowledge the satisfaction of the debt in
18 such a manner to \$400 but eliminates the recovery of attorney
19 fees. The bill provides that the penalty may be recovered by a
20 motion filed by the judgment debtor in the court that rendered
21 the original judgment requesting that the judgment debtor be
22 subrogated to the rights of the judgment creditor, that the
23 court determine the amount currently owed on the judgment, or
24 any other relief as may be necessary to accomplish payment and
25 satisfaction of the judgment. If the motion relates to a lien
26 of judgment as to specific property, the motion may be filed by
27 a person with an interest in the property.

28 The bill also provides that upon the filing of an affidavit
29 that a judgment creditor cannot be located or is unresponsive
30 to requests to accept payment, payment upon a judgment may be
31 made to the treasurer of state as provided in Code chapter 556
32 and the treasurer's receipt for the funds is conclusive proof
33 of payment on the judgment.

34 The bill provides that the district court sitting in small
35 claims has concurrent jurisdiction of motions and orders

S.F. _____

1 relating to releases of judgments where the amount owing on the
2 judgment, including interests and costs, is \$5,000 or less.